

RESPONSE

The present application has been rejected on the bases of anticipation and obviousness of the invention. Specifically, claim 9 has been rejected as being anticipated by Penick et al., United States Patent No. 5,090,841. The remaining claims 1-8 are rejected as being obvious over Hewitt, United States Patent No. 6,612,775, in view of Unkle, United States Patent No. 5,919,000. For one or more of the following reasons, and further in view of the foregoing amendment of claim 9, applicant submits that the rejections of all of the claims are traversed. Applicant requests that the rejections be withdrawn.

Claim 9 has been rejected as being anticipated by the Penick reference. The amendment of claim 9, and specifically the language that physically links the hydraulic cylinder (and specifically the rod thereof) to the cradle, renders the anticipation moot. Nowhere in the Penick patent is the hydraulic cylinder connected to the cradle. In Penick, the hydraulic cylinder merely acts on the cradle to raise it and lower it through movement of a cable and pulleys. Accordingly, the anticipation rejection should be withdrawn.

Claims 1-8 are rejected as being purportedly obvious over Hewitt in view of Unkle. Contrary to the conclusion of the Examiner, Applicant submits that the claimed invention is not disclosed in the combination of Hewitt and Unkle. Further, the differences between the claimed invention and the Hewitt and Unkle references, alone and in combination, are substantial. The language of claim 1 relating to the actuators contains substantial distinctions from the teachings of the Hewitt reference. That language from claim 1 includes the following:

- d) a pair of actuators, each connected on one end to the pivoting cradle and on its other end to one of the first pair of corner posts, the actuators being operable for rotating the cradle upward and past its pivotal connection to the base to a raised lift position, wherein the raised lift position is

overcenter. . . .

For at least the following reasons, there is no disclosure in the Hewitt reference of important claim limitations.

As explicitly set forth in the foregoing claim language, the claimed actuators are connected each on one end to the pivoting cradle and on the other end to one of the corner posts. This feature is nowhere seen in the Hewitt patent where the "housing" of Hewitt's hydraulic cylinder is attached not on its end to a corner post but somewhere in the middle of its length to a corner post. At the very least, it is not connected on the opposite end of the actuator from the connection to the pivoting cradle as set forth in claim 1. As seen in the Hewitt patent, the housings 78 protrude significantly past the end of the body of the watercraft lift shown therein. This is significant for the operation of the Hewitt lift. More importantly, this difference between the disclosure of Hewitt and the claimed invention in the present case are practically and as a matter of engineering construction significantly different. Exposing any portion of the hydraulic cylinders outside the frame work of the lift (as shown by Hewitt) results in undesirable exposure of those cylinders, fittings and hose to damage by contact with boats, people and/or water borne debris. There is no part of the watercraft lift frame to protect the hydraulic cylinders. In the claimed invention, however, the end of the actuator is connected to a corner post on one end and on the opposite end to the pivoting cradle. In this way, the actuator [hydraulic cylinder] is completely within or mounted over the frame that protects it from accidental and unwanted contact.

In addition to the foregoing distinction, the language of claim 1 also requires that the actuators rotate the cradle to a raised lift position that is overcenter. This aspect of the claimed invention is nowhere described in Hewitt. It is nowhere seen in Unkle. This

position of overcenter allows the actuator to be relieved of the constant duty of working to maintain the lift in the upright position. By rotating overcenter, there is the ordinary bias of the actuator to be in the fully retracted, closed position which is a position of strength for the actuator. If the weight on the lift is subject to high winds or other contacts that would otherwise urge the cradle downwardly, then the pressure and constant pressure of the lift on the actuators/hydraulic cylinders could cause damage to the system. Accordingly, this "overcenter" limitation that is nowhere seen in the Hewitt reference is a significant difference. For at least one or more of the foregoing reasons, Applicant submits that the obviousness rejections of claims 1-8 should be withdrawn.

With respect to the rejection of the dependent claims, applicant submits that the substantial differences between independent claim 1 and the cited Hewitt and Unkle references is sufficient to distinguish likewise the dependent claims. It is noteworthy, however, that specifically with respect to claim 2, nowhere does Hewitt disclose the claimed "retainer" that is contained in claim 2. The item 60 in the Hewitt patent is merely an axle. It is not a retainer as that term described in the present application (see paragraph on the bottom of page 8 and the top of page 9 and related drawings).

Finally, Applicant notes the application date and issue date of the Hewitt patent. Applicant specifically reserves the right to swear behind the Hewitt reference if necessary. As demonstrated in the foregoing discussion, however, such evidence of prior invention is unnecessary.

For one or more of the foregoing reasons, Applicant submits that all the claims of the present application are in condition for allowance. Favorable action is requested hereon.

The Commissioner is hereby authorized to charge any deficiencies in payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-2127.

Respectfully Submitted,



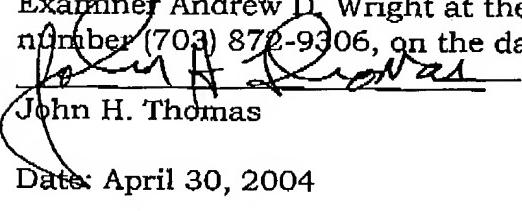
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John H. Thomas  
Attorney/Agent for Applicant(s)  
Reg. No. 33,460

John H. Thomas, P.C.  
John H. Thomas  
1561 East Main Street  
Richmond, Virginia 23219  
Tel. (804) 344-8130

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to Examiner Andrew D. Wright at the Patent and Trademark Office at facsimile number (703) 872-9306, on the date shown below.



John H. Thomas

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